

UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY	
RAS Citron, LLC 130 Clinton Road, Suite 202 Fairfield, NJ 07004 Telephone Number 973-575-0707 Attorneys for Secured Creditor PHH Mortgage Corporation Shauna Deluca, Esq. (SD-8248)	CASE NO.: 19-16049-VFP CHAPTER 13 Objection to Confirmation of Debtor's Chapter 13 Plan
In Re: Brian Simon, Debtor.	

OBJECTION TO CONFIRMATION OF DEBTOR'S MODIFIED CHAPTER 13 PLAN

PHH Mortgage Corporation ("Secured Creditor"), by and through its undersigned counsel, objects to confirmation of Debtor's Modified Chapter 13 Plan (DE # 36), and states as follows:

1. Debtor, Brian Simon ("Debtor"), filed a voluntary petition pursuant to Chapter 13 of the Bankruptcy Code on March 26, 2019.
2. Secured Creditor holds a security interest in the Debtor's real property located at 226 Standish Road, Paramus, NJ 07652, by virtue of a Mortgage recorded on June 5, 2003 in Book 12517, at Page 196 of the Public Records of Bergen County, NJ. Said Mortgage secures a Note in the amount of \$260,000.00.
3. The Debtor filed a Modified Chapter 13 Plan on October 7, 2019.
4. The Plan evidences an intent to sell the subject property, however the plan fails to indicate that Secured Creditor's claim will be paid in full as a result of said sale. Thus far, the sale of property has not been offered or approved by Secured Creditor. As Secured Creditor's claim matured on June 1, 2018, Debtor is obligated to fund a Plan which is feasible to pay the claim in full within a reasonable time pursuant to 11 U.S.C § 1322(b)(5). Therefore, in the event that any sale of property efforts is not successful, the plan fails to satisfy the confirmation requirements of 11 U.S.C § 1325(a)(1).

5. However, the Plan fails to mention monthly adequate protection payments to be made pending property sale. Secured Creditor objects to any plan that proposes to sale the real property and fails to acknowledge and account for monthly payments during the pendency of the sale.
6. Debtor's Plan is speculative in nature in that the plan is silent as to what efforts are being undertaken to sell the property. It is also silent as to what will occur in the event that the sale is not consummated by the proposed completion date. Creditor objects to this treatment of its claim until approval has been granted.
7. Moreover, the plan does not provide for adequate protection payments during the pendency of the sale, and effectively provides the Debtor with six months of payment-free residence in the property. Secured Creditor objects to this treatment as it is proposed in violation of 11 U.S.C § 1322(b)(2) and 11 U.S.C § 1325(a)(1).
8. The Plan does not appear feasible due to inadequate treatment of Secured Creditor's claim. Thus, the plan violates the provisions of 11 U.S.C. § 1325(a)(3) and cannot be confirmed.

WHEREFORE, Secured Creditor respectfully requests this Court sustain the objections stated herein and deny confirmation of Debtor's Plan, and for such other and further relief as the Court may deem just and proper.

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CERTIFICATION OF SERVICE

1. I, Shauna Deluca, represent PHH Mortgage Corporation in this matter.
2. On January 15, 2020, I caused a copy of the following pleadings and/or documents to be sent to the parties listed in the chart below.
3. I certify under penalty of perjury that the above documents were sent using the mode of service indicated.

January 15, 2020

RAS Citron, LLC
Attorney for Secured Creditor
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Fairfield, NJ 07004
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By: /s/ Shauna Deluca
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<u>Name and Address of Party Served</u>	<u>Relationship of Party to the Case</u>	<u>Mode of Service</u>
Robert C. Nisenson Robert C. Nisenson, LLC 10 Auer Court Suite E East Brunswick, NJ 08816	Attorney for Debtor	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other <hr/> (as authorized by the court*)
Brian Simon 226 Standish Road Paramus, NJ 07652	Debtor	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other <hr/> (as authorized by the court*)
Marie-Ann Greenberg Chapter 13 Standing Trustee 30 Two Bridges Rd Suite 330 Fairfield, NJ 07004	Trustee	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other <hr/> (as authorized by the court*)
U.S. Trustee US Dept of Justice Office of the US Trustee One Newark Center Ste 2100 Newark, NJ 07102	U.S. Trustee	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified Mail/RR <input type="checkbox"/> E-mail <input checked="" type="checkbox"/> Notice of Electronic Filing (NEF) <input type="checkbox"/> Other <hr/> (as authorized by the court*)